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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 100812345-2142-03]

RIN 0648-XC900

Snapper-Grouper Fishery of the South Atlantic; Reopening of the Commercial Harvest of Gray Triggerfish in the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reopening.

SUMMARY: NMFS reopens the 2013 commercial sector for gray triggerfish in the South Atlantic exclusive economic zone (EEZ).

NMFS previously determined the commercial annual catch limit (ACL) for gray triggerfish had been reached, and closed the commercial sector for gray triggerfish at 12:01 a.m., local time, on July 7, 2013. However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time. Therefore, NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic EEZ at 12:01 a.m., local time, on October 28, 2013, and it will close at 12:01 a.m., local time, on November 14, 2013. The intended effect of this temporary rule is to maximize harvest

benefits for the commercial sector for gray triggerfish.

DATES: This temporary rule is effective 12:01 a.m., local time, October 28, 2013, until 12:01 a.m., local time, November 14, 2013.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727-824-5305, or e-mail: [catherine.hayslip@noaa.gov](mailto:catherine.hayslip@noaa.gov).

SUPPLEMENTARY INFORMATION: NMFS and the South Atlantic Fishery Management Council (Council) manage South Atlantic snapper-grouper including gray triggerfish under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

NMFS determined that the commercial ACL for gray triggerfish was reached and published a temporary rule on July 1, 2013 (78 FR 39188), to close gray triggerfish on July 7, 2013. However, since that closure, the Science and Research Director (SRD) has received additional landings data and has determined that the ACL was not harvested prior to July 7, 2013. Therefore, in accordance with 50 CFR 622.8(c), NMFS is reopening the commercial sector for gray triggerfish in the South Atlantic

EEZ beginning at 12:01 a.m., on October 28, 2013, and closing at 12:01 a.m., on November 14, 2013.

After the commercial sector closes, the bag limit specified in 50 CFR 622.187(b)(8), applies to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the possession limits specified in 50 CFR 622.187(c), apply to all harvest or possession of gray triggerfish in or from the South Atlantic EEZ. During the closure, the sale or purchase of gray triggerfish taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of gray triggerfish that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, November 14, 2013, and were held in cold storage by a dealer or processor. For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limit and sale and purchase provisions of the commercial closure for gray triggerfish would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.193(q)(1)(i). The commercial sector for gray triggerfish will reopen on January 1, 2014, the beginning of the 2014 commercial fishing season.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of South Atlantic gray triggerfish and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.8(c) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information, and pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and the opportunity for public comment on this temporary rule. Such procedures are unnecessary and contrary to the public interest because NMFS previously determined the commercial ACL for gray triggerfish would be reached by July 7, 2013, and therefore, closed the commercial sector for gray triggerfish in the South Atlantic at 12:01 a.m., local time, on July 7, 2013. However, updated landings estimates indicate the commercial ACL for gray triggerfish has not been reached at this time, and therefore additional harvest is available in order to achieve optimum yield. All that remains is to notify the public that additional

harvest is available under the established ACL and, therefore, the commercial sector for gray triggerfish will reopen.

Additionally, reopening the commercial sector for gray triggerfish will likely result in revenue increases to commercial vessels. Fishermen will be able to keep the gray triggerfish that they are currently required to discard. Delaying the implementation of this rulemaking to provide prior notice and the opportunity for public comment would reduce the likelihood of reopening the commercial sector for gray triggerfish in the 2013 fishing year.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 et seq.

Dated: October 23, 2013

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Kelly Denit,  
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National Marine Fisheries Service.

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